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Paper No. 6

KIMBERLY-CLARK WORLDWIDE INC
401 NORTH LAKE STREET
NEENAH, WI 54956

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SEP 30 2002

OFFICE OF PETITIONS

In re Application of :
Francis Paul Abuto et al : DECISION DISMISSING
Application No. 10/034,079 : PETITION
Filed: December 17, 2001 :
Attorney Docket No. 15708 :

This is a decision on the petition under 37 CFR 1.10 filed June 3, 2002, requesting that the above-identified application be accorded a filing date of December 20, 2001, rather than the presently accorded filing date of December 17, 2001. The petition is properly treated as a petition under 37 CFR 1.10(c).

Applicants request the later filing date on the basis that the application was purportedly deposited in Express Mail service on December 17, 2001, pursuant to the requirements of 37 CFR 1.10. In support, the petition is accompanied, inter alia, a copy of Express Mail receipt No. EL917863985US bears a "date-in" of December 17, 2001 and the official USPS receipt stamp on applicants' "Express Mail" mailing label is not legible, but argue that the application was actually deposited with the United States Postal Service (USPS) as Express Mail on December 20, 2001.

Paragraph (c) of 37 CFR 1.10 states that:

Any person filing correspondence under this section that was received by the Office and delivered by the "Express Mail Post Office to Addressee" service of the USPS, who can show that there is a discrepancy between the filing date accorded by the Office to the correspondence and the date of deposit as shown by the "date-in" on the "Express Mail" mailing label or other official USPS notation, may petition the Commissioner to accord the correspondence a filing date as of the "date-in" on the "Express Mail" mailing label or other official USPS notation, provided that:

(1) The petition is filed promptly after the person becomes aware that the Office has accorded, or will accord, a filing date other than the USPS deposit date;

(2) The number of the "Express Mail" mailing label was placed on the paper(s) or fee(s) that constitute the correspondence prior to the original mailing by "Express Mail;" and

(3) The petition includes a true copy of the "Express Mail" mailing label showing the "date-in," and of any other official notation by the USPS relied upon to show the date of deposit.

A grantable petition under 37 CFR 1.10(c) must include "a true copy of the 'Express Mail' mailing label showing the 'date-in,' and or any other official notation by the USPS relied upon to show the date of deposit."

In this case, the "date-in" on the copy of the Express Mail receipt is December 17, 2001 and the official USPS receipt stamp is not legible. Accordingly, the petition is dismissed.

No petition fee is required and none has been charged.

Any request for reconsideration of this decision should be filed within TWO MONTHS of the date of this decision in order to be considered timely (see 37 CFR 1.181(f)) and should be addressed as follows:

By mail: U.S. Patent and Trademark Office
Box DAC, P.O. Box 2327
Arlington, VA 22202

OR

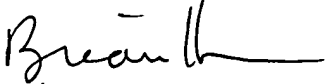
Assistant Commissioner for Patents
Box DAC
Washington, DC 20231

By facsimile: (703) 308-6916
Attn: Office of Petitions

By hand: Office of Petitions
2201 South Clark Place
Crystal Plaza 4, Suite 3C23
Arlington, VA 22202

The application is being returned to Technology Center AU 1771 with a filing date of December 17, 2001, for examination in due course.

Telephone inquiries specific to this matter should be directed to Wan Laymon at (703) 306-5685.


Brian Hearn
Special Projects Examiner
Office of Petitions
Office of the Deputy Assistant Commissioner
for Patent Policy and Projects